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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/526,465

03/03/2005

Ewald Houben

HOUB3001/JEK

8170

23364 7590 04/01/2009

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EXAMINER

NGUYEN, CHI Q

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

04/01/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/526,465	<b>Applicant(s)</b> HOUBEN, EWALD	
	<b>Examiner</b> CHI Q. NGUYEN	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 14-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-13 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This Office action is in response to applicant's amendment filed on 1/27/2009.

#### ***Status of Claims***

Claims 1-13 are pending.

Claims 14-16 have been withdrawn.

#### ***Claim Objections***

Claims 1-13 are objected to because of the following informalities: a preamble for claim 1 should read --A construction element--; a preamble for claims 2-13 should read --The construction element--. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitations "the anchoring" and "the hollow elements" in lines 1-2. There are insufficient antecedent basis for these limitations in the claim.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 4-13 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 3,557,551 to Curran.

Claims 1 and 12:

Curran discloses in Figs. 1-2, a construction element for forming a reinforced concrete slab 10, comprising at least a lower hardened concrete layer 18, at least a number of reinforcement elements 14 embedded in the concrete layer and extending upwardly therefrom and cavity defining elements 16 imbedded in and extending at least partially upwardly with the reinforcement elements from the concrete layer and defining cavities 98, wherein the cavity defining elements 16 and the lower concrete layer 18 are configured to be covered over with concrete at a later stage, and said cavity defining elements 16 are mutually nestable with each other before being imbedded in the concrete layer.

Claim 2:

Wherein the cavity defining elements 16 are nestable with each other over at least 50% of their heights.

Claim 4:

Wherein the cavity defining elements 16 have a lower part situated in the concrete of the hardened concrete layer.

Claim 5:

Wherein the cavity defining elements 16 are anchored to the construction element, solely via a part thereof embedded in the concrete layer.

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Claim 6:

Wherein the cavity defining elements 16 are anchored to the construction element in such a way that the cavity defining elements at least remain anchored against floating and possible other forces when liquid concrete or cast concrete is poured over said cavity defining elements.

Claim 7:

Wherein the anchoring is obtained by means of locking parts 24 provided on the hollow elements, said locking parts 24 at least including a laterally extending collar 48'.

Claim 8:

Wherein the cavity defining elements 16 are erected in rows in orthogonal directions.

Claim 9:

Including a supporting device 106 arranged to support a top reinforcement, said supporting device defining supporting parts which are located higher than the top sides of the cavity defining elements 16 (Fig. 9).

Claim 10:

Wherein the supporting parts 106 are formed of reinforcement rods extending mainly parallel to the concrete layer (Fig. 9).

Claim 11:

Including reinforcement elements 14 in the concrete layer 18 and wherein the cavity defining elements 16 are anchored in the concrete layer without contacting said reinforcement elements.

Claim 13:

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Curran discloses in Figs. 1-2, a construction element for forming a reinforced concrete slab 10, comprising at least a hardened lower concrete layer 18, at least a number of reinforcement elements 14 embedded in the concrete layer and extending upwardly therefrom, and cavity defining elements 16 imbedded in and extending at least partially upwardly from the concrete layer and cavity defining elements, said cavity defining elements and said lower concrete layer configured to be covered with concrete at a later stage, and a supporting device 106 (Fig. 9) arranged to support a top reinforcement, said supporting device defining supporting parts which are located higher than the top sides of the cavity defining elements 16.

#### ***Allowable Subject Matter***

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-2 and 4-13 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

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/C. Q. N./

Examiner, Art Unit 3635

/Richard E. Chilcot, Jr./

Supervisory Patent Examiner, Art Unit 3635